

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DARREN LASSITER,)	CASE NO. 1: 21 CV 1228
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	<u>ORDER ADOPTING</u>
)	<u>MAGISTRATE'S REPORT AND</u>
)	<u>RECOMMENDATION</u>
CITY OF EAST CLEVELAND,)	
)	
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Thomas M. Parker (ECF #20). Magistrate Judge Parker recommends that the motion of Defendant City of East Cleveland for reconsideration of its motion to dismiss (ECF #16) be denied. Defendant's Motion for Reconsideration was filed 10 months after the Court denied its motion to dismiss and is based upon a new legal theory, the statute of limitations, that was not raised in its motion to dismiss, nor was the defense raised in Defendant's answer. As such, Defendant has waived the statute of limitations defense. See Fed. R.C.P. 8(c). The Defendant has not filed any objection to the Report and Recommendation.

Standard of Review

The applicable standard of review of a magistrate judge's report and recommendation depends upon whether objections were made to that report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case *de novo*. FED R. CIV. P. 72(b)(3). When no timely objection is filed, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P.

72 advisory committee's notes (citations omitted). See also, *Thomas v. Arn*, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to these findings.")

Conclusion

The Court has carefully reviewed the Report and Recommendation and agrees with the findings set forth therein. The Report and Recommendation of Magistrate Judge Parker (ECF #20) is ADOPTED. Defendant's Motion for Reconsideration (ECF #16) is denied.

IT IS SO ORDERED.

DATED: December 1, 2022


DONALD C. NUGENT
United States District Judge